

INTERNET
FORM NLRB-501
(2-08)UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST EMPLOYER

FORM EXEMPT UNDER 44 U.S.C. 3512

DO NOT WRITE IN THIS SPACECase
14-CA-160613Date Filed
September 23, 2015**INSTRUCTIONS:**

File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer King's Management Co. Inc., a McDonald's Franchisee and McDonald's USA, LLC as Joint or Single Employer		b. Tel. No.
		c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 812 Minnesota Avenue, Kansas City, KS 66101 and One McDonald's Plaza, Oak Brook, IL 60523		g. e-Mail
e. Employer Representative		h. Number of workers employed 100
i. Type of Establishment (factory, mine, wholesaler, etc.) Restaurant	j. Identify principal product or service Fast Food	
k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) 8(a)(1) and 8 (a)(3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.		

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

About (b) (6), (b) (7) 2015, the Employer threatened employees with disciplinary action because they exercised their Section 7 rights, including but not limited to participation in a rally with other workers demanding higher wages and the right to form a union.

About (b) (6), (b) (7)(C) 2015, the Employer retaliated against (b) (6), (b) (7)(C) for exercising (b) (6) Section 7 rights, including but not limited to participation in a rally with other workers demanding higher wages and the right to form a union, by requiring that (b) (6), (b) (7)(C) (b) for an alleged (b) (6), (b) (7)(C) in (b) (6), (b) (7)(C) or face disciplinary action, even though (b) (6), (b) (7)(C) was not the only employee using the drawer during the shift in question.

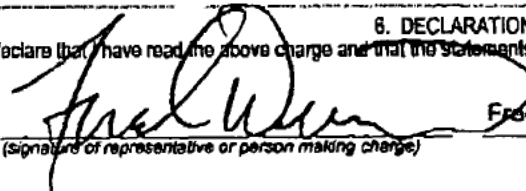
3. Full name of party filing charge (If labor organization, give full name, including local name and number)

Workers' Organizing Committee - Kansas City

4a. Address (Street and number, city, state, and ZIP code) P.O. Box 5946 Kansas City, MO 64171	4b. Tel. No. (816)585-7866
	4c. Cell No.
	4d. Fax No.
	4e. e-Mail

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)**6. DECLARATION**

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.

By  Fred Wickham, Attorney for WOC-KC
(Signature of representative or person making charge) (Print/type name and title or office, if any)

Tel. No. (816)753-8754
Office, if any, Cell No.
Fax No. (816)373-9540
e-Mail
fred@wickham-wood.com

Address 4317 S. River Blvd., Independence, MO 64055

09/23/15
(date)**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)****PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

Agency Website: www.nlr.gov
Telephone: (913)967-3000
Fax: (913)967-3010



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September 24, 2015

King's Management Co., Inc., a McDonald's Franchisee
812 Minnesota Avenue
Kansas City, KS 66101

McDonald's USA LLC
One McDonald's Plaza
Oak Brook, IL 60523

Re: King's Management Co., Inc. a McDonald's
Franchise and McDonald's USA, LLC as Joint or
Single Employer
Case 14-CA-160613

Dear Sir or Madam:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney WILLIAM LEMASTER(William.lemaster@nlrb.gov), whose telephone number is (913)967-3012. If this Board agent is not available, you may contact Supervisory Field Attorney SUSAN A. WADE-WILHOIT whose telephone number is (913)967-3014.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your

September 24, 2015

written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

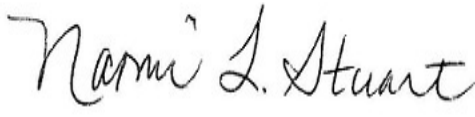
Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

DANIEL L. HUBBEL
Regional Director

By:



NAOMI STUART
Officer in Charge

DLH:rmc
Enclosures

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAMEKing's Management Co., Inc. a McDonald's Franchise and McDonald's USA, LLC as
Joint or Single Employer**CASE NUMBER**

14-CA-160613

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$

YES

NO

B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months?** If yes, specify date: _____**10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**KING'S MANAGEMENT CO., INC. A
MCDONALD'S FRANCHISE AND
MCDONALD'S USA, LLC AS JOINT OR
SINGLE EMPLOYER**

Charged Party

and

**WORKERS' ORGANIZING COMMITTEE-
KANSAS CITY**

Charging Party

Case 14-CA-160613

AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on September 24, 2015, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

McDonald's
812 Minnesota Avenue
Kansas City, KS 66101

McDonald's USA LLC
One McDonald's Plaza
Oak Brook, IL 60523

September 24, 2015

Date

Regina Creason, Designated Agent of NLRB

Name

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

Agency Website: www.nlrb.gov
Telephone: (913)967-3000
Fax: (913)967-3010



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September 24, 2015

Workers' Organizing Committee-Kansas City
PO Box 5946
Kansas City, MO 64171

Re: King's Management Co., Inc., a McDonald's
Franchise and McDonald's USA, LLC as
Joint or Single Employer
Case 14-CA-160613

Dear Sir or Madam:

The charge that you filed in this case on September 23, 2015 has been docketed as case number 14-CA-160613. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney WILLIAM LEMASTER(William.lemaster@nlrb.gov), whose telephone number is (913)967-3012. If this Board agent is not available, you may contact Supervisory Field Attorney SUSAN A. WADE-WILHOIT whose telephone number is (913)967-3014.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlrb.gov, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you

September 24, 2015

fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

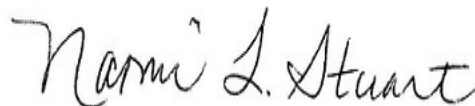
Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlr.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

DANIEL L. HUBBEL
Regional Director

By: 
NAOMI STUART
Officer in Charge

DLH:rmc

Enclosure

cc: Fred Wickham, Attorney
Wickham & Wood, LLC
4317 S River Blvd
Independence, MO 64055-4586

From: [LeMaster, William](#)
To: ["Fred Wickham"](#)
Subject: Case 14-CA-160613 King's Management
Date: Thursday, September 24, 2015 9:58:00 AM
Attachments: [image001.jpg](#)

Fred,

I have been assigned to the new King's Management case. Looking at my schedule for next week, I am available for affidavits on Tuesday and Thursday (I am the information officer on Wednesday and can make that work if necessary, but it's not ideal). Let me know if we have more than one witness. Preferably I would like to start around 9 a.m., 1 or 2 p.m.

Thanks,

William F. LeMaster
Field Attorney
National Labor Relations Board
Subregion 17
8600 Farley Street
Suite 100
Overland Park, Kansas 66212

(913)967-3012 Direct
(913)967-3010 Fax



From: [LeMaster, William](#)
To: ["Place, Jeff"](#)
Subject: RE: New King's Management Charge
Date: Thursday, September 24, 2015 4:30:00 PM
Attachments: [CHG.14-CA-160613.Signed Charge.pdf](#)
[image001.jpg](#)

Hey, Jeff. You are correct. It was filed yesterday. Charge is attached. I'll be in touch... probably the end of next week.

Thanks,

Bill

From: Place, Jeff [mailto:JPlace@littler.com]
Sent: Thursday, September 24, 2015 2:50 PM
To: LeMaster, William
Subject: New King's Management Charge

Bill:

I see there was yet another new King's Management charge filed in the last couple of days. Can you please send it to me when you have a moment?

Thanks!

Jeff

P.S. Here's the info I have ...

Case Number: 14-CA-160613

King's Management Co., Inc., a McDonald's Franchise and McDonald's USA, LLC as Joint or Single Employer

Jeff Place, Shareholder
816.627.4402 direct 913.205.7123 mobile 816.817.1645 fax JPlace@littler.com
1201 Walnut Street, Suite 1450 | Kansas City, MO 64106



| littler.com

Employment & Labor Law Solutions Worldwide

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worldwide through a number of separate legal entities. Please visit www.littler.com for more information.

From: [Fred Wickham](#)
To: [LeMaster, William](#)
Subject: Re: Case 14-CA-160613 King's Management
Date: Monday, September 28, 2015 4:24:48 PM

Bill,

I'm going to pick (b) (6), (b) (7) up so we should be on time assuming (b) (6), (b) (7) ready to go. I need to get out as soon as possible as well.

Thanks

Fred Wickham

Wickham & Wood, LLC
4317 S. River Blvd.
Independence, MO 64055
Phone: 816-753-8751
Fax: 816-373-9540

Privileged and Confidential

NOTE: The Missouri Bar Disciplinary Counsel requires all Missouri lawyers to notify all recipients of e-mail that (1) e-mail communication is not a secure method of communication; (2) any e-mail that is sent to you or by you may be copied and held by various computers it passes through as it goes from sender to recipient (3) persons not participating in our communication may intercept our communications by improperly accessing your computer or my computer or even some computer unconnected to either of us which the e-mail passes through. I am communicating to you via e-mail because you have consented to receive communications via this medium. If you change your mind and want future communications to be sent in a different fashion please advise me at once. The information contained in the e-mail message/document is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and as such is privileged and confidential. If the reader of this message/document is not the intended recipient, you are hereby notified that you have received this message/document in error and that any review, dissemination, distribution, or copying of this message is strictly prohibited by law. If you have received this message/document in error, please notify us immediately via return e-mail and delete the original message/document or phone at [\(816\) 753-8751](tel:8167538751).

From: "LeMaster, William" <William.LeMaster@nlrb.gov>
To: Fred Wickham <fred@wickham-wood.com>
Sent: Monday, September 28, 2015 2:29 PM
Subject: RE: Case 14-CA-160613 King's Management

Fred, please do your best to make sure (b) (6), (b) (7)(C) is here on time. If at all possible, I need to be on the road by (b) (6), (b) (7)(C)

Thanks, Bill

From: LeMaster, William
Sent: Friday, September 25, 2015 4:08 PM

To: 'Fred Wickham'

Subject: RE: Case 14-CA-160613 King's Management

Perfect. See you (b) (6), (b) (7)(C). Please pass along to (b) (6), (b) (7)(C) that (b) (6) prepare in advance of our meeting...perhaps making a timeline or a list of relevant conversations/statements so (b) (6) doesn't have to shoot from the hip and potentially forget something. I find it helps.

I appreciate it. Have a nice weekend.

Bill

From: Fred Wickham [<mailto:fred@wickham-wood.com>]

Sent: Friday, September 25, 2015 4:02 PM

To: LeMaster, William

Subject: Re: Case 14-CA-160613 King's Management

Bill,

At this point (b) (6), (b) (7)(C) is the (b) (6), (b) (7) witness. We can have (b) (6), (b) (7) at your office either (b) (6), (b) (7)(C). I might suggest (b) (6), (b) (7)(C) so that if something comes up we'd still have (b) (6), (b) (7)(C) available.

Let me know what works best for you.

Thanks,

Fred

Fred Wickham

Wickham & Wood, LLC
4317 S. River Blvd.
Independence, MO 64055
Phone: 816-753-8751
Fax: 816-373-9540

Privileged and Confidential

NOTE: The Missouri Bar Disciplinary Counsel requires all Missouri lawyers to notify all recipients of e-mail that (1) e-mail communication is not a secure method of communication; (2) any e-mail that is sent to you or by you may be copied and held by various computers it passes through as it goes from sender to recipient (3) persons not participating in our communication may intercept our communications by improperly accessing your computer or my computer or even some computer unconnected to either of us which the e-mail passes through. I am communicating to you via e-mail because you have consented to receive communications via this medium. If you change your mind and want future communications to be sent in a different fashion please advise me at once. The information contained in the e-mail message/document is intended only for the personal and confidential use of the recipient(s) named above. This message may be an attorney-client communication and as such is privileged and confidential. If the reader of this message/document is not the intended recipient, you are hereby notified that you have received this message/document in error and that any review, dissemination, distribution,

or copying of this message is strictly prohibited by law. If you have received this message/document in error, please notify us immediately via return e-mail and delete the original message/document or phone at (816) 753-8751.

From: "LeMaster, William" <William.LeMaster@nlrb.gov>
To: Fred Wickham <fred@wickham-wood.com>
Sent: Friday, September 25, 2015 10:22 AM
Subject: RE: Case 14-CA-160613 King's Management

Fred, I am working out of the office today and Monday. I can be reached by email or cell at 913-285-0250. Please let me know witness availability as soon as possible.
Thanks, Bill

From: LeMaster, William
Sent: Thursday, September 24, 2015 8:58 AM
To: 'Fred Wickham'
Subject: Case 14-CA-160613 King's Management

Fred,

I have been assigned to the new King's Management case. Looking at my schedule for next week, I am available for affidavits on Tuesday and Thursday (I am the information officer on Wednesday and can make that work if necessary, but it's not ideal). Let me know if we have more than one witness. Preferably I would like to start around 9 a.m., 1 or 2 p.m.

Thanks,

William F. LeMaster
Field Attorney
National Labor Relations Board
Subregion 17
8600 Farley Street
Suite 100
Overland Park, Kansas 66212

(913)967-3012 Direct
(913)967-3010 Fax



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

SUBREGION 17
8600 Farley St Ste 100
Overland Park, KS 66212-4677

Agency Website: www.nlr.gov
Telephone: (913)967-3000
Fax: (913)967-3010

November 12, 2015

Fred Wickham, Attorney
Wickham & Wood, LLC
4317 S River Blvd
Independence, MO 64055-4586

Re: King's Management Co., Inc., a
McDonald's Franchise and McDonald's
USA, LLC as Joint or Single Employer
Case 14-CA-160613

Dear Mr. Wickham:

We have carefully investigated and considered your charge that King's Management Co., Inc., a McDonald's Franchisee and McDonald's USA LLC have violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge because there is insufficient evidence to establish a violation of the Act.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals. If you appeal, you may use the enclosed Appeal Form, which is also available at www.nlr.gov. However, you are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. Filing an appeal electronically is preferred but not required. The appeal MAY NOT be filed by fax or email. To file an appeal electronically, go to the Agency's website at www.nlr.gov, click on **E-File Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

Appeal Due Date: The appeal is due on **November 27, 2015**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than November 25, 2015. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the

appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before November 27, 2015**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 27, 2015, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

DANIEL L. HUBBEL
Regional Director

By: /s/ Mary G. Taves

MARY G. TAVES
Acting Officer in Charge

DLH:rmc
Enclosure

cc: Jeffrey M. Place, Attorney
Littler Mendelson, P.C.
1201 Walnut Street, Suite 1450
Kansas City, MO 64106

King's Management Co., Inc., a
McDonald's Franchisee
812 Minnesota Avenue
Kansas City, KS 66101

King's Management Co., Inc., a McDonald's - 3 - November 12, 2015
Franchise and McDonald's USA, LLC as
Joint or Single Employer
Case 14-CA-160613

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Workers' Organizing Committee-Kansas
City
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UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
Room 8820, 1099 14th Street, N.W.
Washington, D.C. 20570

Date: 11/27/2015

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in KING'S MANAGEMENT CO., INC., A MCDONALD'S FRANCHISEE, and, MCDONALD'S USA, LLC, JOINT EMPLOYERS

Case Name(s).

14-CA-160613

Case No(s). (If more than one case number, include all case numbers in which appeal is taken.)



(Signature)

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD**

WORKERS ORGANIZING)
COMMITTEE – KANSAS CITY,)
)
and)
)
KING’S MANAGEMENT CO., INC.,)
A MCDONALD’S FRANCHISEE,)
AND MCDONALD’S USA, LLC,)
JOINT EMPLOYERS.)

Case No. 14-CA-160613

Charging Party, Workers Organizing Committee—Kansas City (“WOC-KC” or “the Union”), respectfully appeals from Subregion 17’s (“The Region”) decision to dismiss the above-captioned charge, in which the Union alleges that (b) (6), (b) (7)(C) was disciplined in retaliation for engaging in union activity.

The Region found that insufficient evidence existed to establish a violation of the National Labor Relations Act based on threats of discipline against (b) (6), (b) (7)(C) and the selectively enforced disciplinary requirement that (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), all the day after (b) (6), (b) (7)(C) engaged in protected concerted activities that were well-publicized on the very day (b) (6) was disciplined. The Region reached this decision even though the Union presented witness testimony from (b) (6), (b) (7)(C) that 1) (b) (6) was not the only employee to work the “drawer” which (b) (6), (b) (7)(C) found “short” of money, and the other, non-union employee did not receive discipline, 2) no reasonable evidence exists to support that (b) (6), (b) (7)(C) actions in any way contributed to the cause of the alleged shortage, and 3) Employer’s (b) (6), (b) (7)(C) admitted actual knowledge of other non-union employees stealing from the drawer, yet they faced nowhere near the harsh discipline, if any, (b) (6), (b) (7)(C) received.

The discipline leveled against (b) (6), (b) (7)(C) was wholly unfair and irrational. While (b) (6), (b) (7)(C) was not the only employee to work at the drawer when a “shortage” was found, (b) (6) was the only employee who was disciplined for that shortage. The discipline imposed against (b) (6), (b) (7)(C) the threat of suspension and termination—in addition to a requirement that (b) (6) (b) (6) for which no evidence of (b) (6) fault exists, was far more severe than the discipline imposed on (b) (6), (b) (7)(C) non-union coworkers whose actions, such as blatantly stealing as admitted by Employer’s (b) (6), (b) (7)(C) were far more egregious. Yet, on the day (b) (6), (b) (7)(C) protected concerted activities were well publicized, (b) (6) received uncharacteristically harsh, unfounded discipline, unlike (b) (6), similarly situated and equally culpable non-union coworker, who was not at all punished. The punitive nature of the irrational discipline cannot be understated. (b) (6), (b) (7)(C) was the only employee of those who worked this drawer to suffer such punishment and to receive such unfounded blame. The Union therefore requests that the Region’s decision to dismiss the charge be reversed, that the charge be remanded, and that a complaint be issued absent appropriate settlement.

Procedural Posture

WOC-KC filed the charge in Case No. 14-CA-160613 on September 23, 2015. The Region announced the dismissal of the case in a letter to WOC-KC on November 12, 2015.

Facts

Employer is a franchisee of McDonald's restaurants. Employer owns and operates a number of McDonald's locations, including the store located at 812 Minnesota Avenue, Kansas City, Kansas 66101.

(b) (6), (b) (7)(C) is a (b) (6), (b) (7)(C) and a Union movement through the Kansas City Metropolitan Area and especially within (b) (6), (b) (7)(C) store. (b) (6), (b) (7)(C) is an exemplary employee. Moreover, (b) (6), (b) (7)(C) has been regularly (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) has been a part of the (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), (b) (7)(D) Specifically, (b) (6), (b) (7)(C) engaged in strikes (b) (6), (b) (7)(C) and a Union in (b) (6), (b) (7)(C) 2014, (b) (6), (b) (7)(C) 2014, (b) (6), (b) (7)(C) 2014, and on (b) (6), (b) (7)(C) 2015. (b) (6), (b) (7)(C) has been cited or recorded in the press, on television, radio, and in print on several occasions. (b) (6), (b) (7)(C) In (b) (6), (b) (7)(C) 2014, (b) (6), (b) (7)(C) marched on McDonald's headquarters and shut down the shareholders meeting where (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was participating. (b) (6), (b) (7)(C) More importantly, (b) (6), (b) (7)(C) saw each other during that protest. (b) (6), (b) (7)(C) Each time (b) (6), (b) (7)(C) went on strike, which occurred several times, a strike and return notice were presented to the Employer's management at 812 Minnesota Avenue, Kansas City, Kansas 66101.

In addition, (b) (6), (b) (7)(C) engaged in a (b) (6), (b) (7)(C) on (b) (6), (b) (7)(C) 2015 at the Restaurant Association's headquarters at 4049 Pennsylvania Avenue, Kansas City, Mo 64111. King and King's Management Co., Inc. are members of the Restaurant Association. Press attended this event. (b) (6), (b) (7)(C) The (b) (6), (b) (7)(C) and took video footage. (b) (6), (b) (7)(C) Later that day, on (b) (6), (b) (7)(C) 2015, at (b) (6), (b) (7)(C) was scheduled to work, where (b) (6), (b) (7)(C) showed up for (b) (6), (b) (7)(C) shift. (b) (6), (b) (7)(C)

On (b) (6), (b) (7)(C) 2015, when the (b) (6), (b) (7)(C) and the protest at the Restaurant Association actions was published, (b) (6), (b) (7)(C) went to work. (b) (6), (b) (7)(C). Employer's restaurant subscribes to and received the (b) (6), (b) (7)(C) 2015. (b) (6), (b) (7)(C) As (b) (6), (b) (7)(C) walked into work that day, (b) (6), (b) (7)(C) co-workers appeared quiet, (b) (6), (b) (7)(C) and cold to (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) was put on break almost two hours before normal. (b) (6), (b) (7)(C), (b) (7)(D) 2015. (b) (6), (b) (7)(C) was put on break a (b) (6), (b) (7)(C) and does not usually go on break until (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) did not explain why (b) (6), (b) (7)(C) was put on break earlier. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was put on the register when (b) (6), (b) (7)(C) was put on break prematurely. (b) (6), (b) (7)(C) While (b) (6), (b) (7)(C) was put on this break, (b) (6), (b) (7)(C) performed a "skim," of the drawer. (b) (6), (b) (7)(C) A "skim" occurs when a drawer exceeds \$500 and a manager comes in to remove at least \$400 from that drawer. (b) (6), (b) (7)(C)

When (b) (6), (b) (7)(C) returned from break, after the “skim” had been performed, there were five twenties instead of the typical seven in his drawer after a “skim.” (b) (6). Typically, the “skim” will be entered into the computer and a “slip” notifying the worker how much the skim was, will be in the drawer. (b) (6). However, on this day, just a day after (b) (6), (b) (7)(C) very public protected concerted activity, there was no slip in (b) (6) drawer after the “skim,” and the skim was not performed before (b) (6) went on break, but instead it was performed while (b) (6) was on break. (b) (6).

When (b) (6), (b) (7)(C) was trying to leave for the end of (b) (6) shift, (b) (6) was asked to stay an (b) (6), (b) (7)(C). (b) (6). Before (b) (6), (b) (7)(C) left, management did not “pull (b) (6) drawer” like they were supposed to. (b) (6).

(b) (6), (b) (7)(C) returned to work on (b) (6), (b) (7)(C) 2015, early as always. (b) (6), (b) (6), (b) (7)(C) informed (b) (6), (b) (6) that (b) (6) was in trouble because (b) (6), “drawer was short.” *Id.* Specifically, (b) (6), (b) (7)(C) said (b) (6), (b) (7)(C), (b) (7)(D) (b) (6), (b) (7)(C) responded by saying (b) (6), (b) (7)(C), (b) (7)(D) (b) (6), (b) (7)(C) then responded that it did not matter whether (b) (6), (b) (7)(C) did or did not do it because it was (b) (6), (b) (7)(C) name on the drawer and so (b) (6), (b) (7)(C) was the one responsible for the shortage. (b) (6).

Typically, if an employee is “short” an amount close to \$20 in his or her drawer, management will suspend the employee for three days. (b) (6). Further violations will result in termination. (b) (6). (b) (6), (b) (7)(C) however, was told by (b) (6), (b) (7)(C) that if it happened again and if (b) (6), (b) (7)(C) (b) (6), (b) (6), would be terminated. (b) (6).

Next week, on (b) (6), (b) (7)(C) 2015, when (b) (6), (b) (7)(C) was (b) (6), (b) (7)(C), (b) (6), (b) (7)(C), withheld (b) (6), (b) (7)(C) (b) (6) until (b) (6) paid (b) (6), (b) (7)(C) (b) (6), (b) (6), (b) (7)(C) insisted that (b) (6) needed documentation (b) (6), (b) (6) from (b) (6), (b) (7)(C) or (b) (6), (b) (7)(C) evidencing that (b) (6), (b) (7)(C) had (b) (6) what they insisted (b) (6) (b) (6), (b) (6), (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) refused to provide (b) (6), (b) (6) such documentation. (b) (6), (b) (6), (b) (7)(C) insisted again, told (b) (6), (b) (7)(C) that (b) (6), (b) (6), (b) (7)(C), (b) (6), (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) found (b) (6), (b) (7)(C) and told (b) (6), (b) (6) had to get out of the store. (b) (6).

It is crucial to explaining the fundamental, underlying illegality that the following point be clear here, not long after this incident, (b) (6), (b) (7)(C) was either disciplined or terminated. This “policy” of charging employees for “shortages” in their drawers was not a “policy” at all, but a way (b) (6), (b) (7)(C) selectively sought to impose discipline on employees when (b) (6) wanted to or when it benefited (b) (6), (b) (6). Approximately (b) (6), (b) (7)(C) draw was “short” \$3.00, and (b) (6), (b) (7)(C) explained to (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C). (b) (6), (b) (6), (b) (7)(C) said (b) (6) and paid the money to the draw to correct the balance directly in front of (b) (6), (b) (7)(C) (b) (6). Other managers will pay any shortages out of their pockets and will not (b) (6), (b) (7)(C). (b) (6).

Yet, when (b) (6), (b) (7)(C) the only employee in this store involved in (b) (6), (b) (7)(C) and a Union, “comes up short,” (b) (6) is threatened with a write-up, suspension, and termination. (b) (6).

More importantly to this charge of discrimination, when it is clearly possible or a known fact that other employees could be or are responsible for alleged “shortages” in the drawer, (b) (6), (b) (7)(C) and not the responsible parties are disciplined. (b) (6), (b) (7)(C) On (b) (6), (b) (7)(C) 2015, when (b) (6), (b) (7)(C) was accused of a drawer “shortage,” another employee had been working (b) (6), (b) (7)(C) drawer; but, (b) (6), (b) (7)(C) was threatened with discipline (b) (6), (b) (7)(C) . (b) (6), (b) (7) Yet, when (b) (6), (b) (7)(C) is directly aware of the employees blatantly stealing from the drawer, they are not disciplined (b) (6), (b) (7)(C) . (b) (6), (b) (7)

(b) (6), (b) (7)(C) belief that (b) (6) was disciplined in retaliation for (b) (6) union activities was well founded. (b) (6), (b) (7)(C) has been an active part of the (b) (6), (b) (7)(C) and Union movement. (b) (6) is the (b) (6), (b) (7)(C) and a Union movement in (b) (6) store, and (b) (6) managers are keenly aware of (b) (6) involvement in the movement. Moreover, (b) (6), (b) (7)(C) is one of the more (b) (6), (b) (7)(C) throughout the Kansas City Metropolitan area, and was even prominently discussed and quoted in the Kansas City Star published on the day (b) (6) received discriminatory discipline. The day after a prominent, well-publicized union activity, (b) (6), (b) (7)(C) was the only employee at the Employer’s franchise punished for an alleged “shortage” in a drawer whose fault easily could have been that of the other employees working that drawer. Yet, only (b) (6), (b) (7)(C) was disciplined. This is consistent with a pattern of anti-union animus at this franchise. When managers have actual knowledge of other employees stealing from a drawer, they are not punished (b) (6), (b) (7)(C) Yet, when (b) (6), (b) (7)(C) drawer was allegedly “short” the day after (b) (6) engaged in a well-publicized union action, and another employee could have been at fault, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) was threatened with suspension and termination. This is the definition of anti-union discrimination. It should also be noted that because (b) (6), (b) (7)(C) is not McDonald’s policy, (b) (6), (b) (7)(C) like (b) (6), (b) (7)(C) were clearly using this extraordinary form of “discipline” in a selective, subjective, and discriminatory way. This disparate, discriminatory, and irrational discipline clearly strikes of anti-union retaliation.

Argument

An employee establishes a prima facie case of discrimination when it shows that: (1) an employee was engaged in protected activity; (2) the employer was aware of the activity; and (3) animus towards the protected activity was a motivating or substantial factor for a subsequent adverse employment action. *Wright Line*, 251 NLRB 1083 (1980), *enfd.* 662 F.2d 889 (1st Cir. 1981), *approved in NLRB v. Transportation Management Corp.*, 462 U.S. 393, 399-403 (1983); *American Gardens Management Co.*, 338 NLRB 644 (2002). An employer cannot rebut a prima facie case of discrimination by merely articulating a legitimate nondiscriminatory reason for its action. Instead, an employer bears both the burden of production and the burden of persuasion: it must affirmatively introduce sufficient evidence to persuade the Board that it would have taken the same employment action regardless of the protected activity. *See Hyatt Regency Memphis*, 296 NLRB 259, 260 (1989).

(b) (6), (b) (7)(C) prima facie case is straightforward. (b) (6), (b) (7)(C) well publicized protest and picket of the Restaurant Association, of which Employer’s (b) (6), is a known member, is clearly protected concerted activity under the Act, as were (b) (6), (b) (7)(C) several previous strikes (b) (6), and a Union, and Employer and (b) (6), (b) (7)(C) were plainly aware that (b) (6), (b) (7)(C)

had engaged in those activities. *McClendon Elec. Servs., Inc.*, 340 NLRB 613, 613 (2003). (b) (6), (b) (7)(C) had been involved in several strikes (b) (6), and a Union, at least three, at the subject store for an entire year. The Employer was acutely aware of (b) (6), (b) (7)(C) union activity, which was (b) (6), (b) (7)(C) and had been broadcast on other local media on the very day (b) (6), (b) (7)(C) was selectively disciplined. (b) (6), (b) (7)(C) undisputedly engaged in protected concerted activity. The Employer had knowledge of (b) (6), (b) (7)(C) well publicized protected activity from the Union's many strike notices it provided to the Employer since (b) (6), (b) (7) and the abundance of (b) (6), (b) (7)(C) published and broadcast interviews with local media.

In evaluating Employer's actions, it is appropriate to examine the entire record and consider circumstantial evidence to determine whether an inference of an unlawful motive is warranted. See, e.g., *Fluor Daniel, Inc. (Fluor Daniel I)*, 304 NLRB 970, 970 (1991); *Shattuck Denn Mining Corp. v. NLRB*, 362 F.2d 466, 470 (9th Cir. 1966). Evidence of a discriminatory motive may be established by a number of factors including timing, threats, or other unlawful statements, and the Employer's reliance on fabricated defenses. See, e.g., *C.P. Associates, Inc.*, 336 NLRB 167, 167 (2001); *Power Equipment Company*, 330 NLRB 70, 74 (1999); *Shattuck Denn Mining*, supra at 470. It is clearly no coincidence that (b) (6), (b) (7)(C) (b) (6), (b) (7)(C), selectively sought to enforce a policy and discipline against (b) (6), (b) (7)(C) immediately after (b) (6) engaged in very public, protected concerted activities. See *Davey Roofing, Inc.*, 341 NLRB 222, 223 (2004) (explaining "it is well settled that the timing of an employer's action in relation to known union activity can supply reliable and competent evidence of unlawful motivation"). Other non-union employees (b) (6), (b) (7)(C) was the only employee engaged in the (b) (6), (b) (7)(C) and a Union at that store) are allowed to steal from the drawer and are not (b) (6), (b) (7)(C) disciplined (*Affidavit of (b) (6), (b) (7)(C)* at (b) (6), (b) (7)(C)). Yet, the day after (b) (6), (b) (7)(C) well-publicized protected concerted activities, Employer's (b) (6), (b) (7)(C) threatened (b) (6), (b) (7)(C) with suspension and termination and required (b) (6), (b) (7)(C) (b) (6), (b) (7)(C). Moreover, unlike in the instances when (b) (6), (b) (7)(C) admitted actual knowledge of non-union employees stealing from the drawer who were not (b) (6), (b) (7)(C) here, against a union-member, (b) (6), (b) (7)(C) sought to apply not only the threat of suspension and discipline, but required (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) when it was not at all clear (b) (6) was responsible for the shortage as other employees "worked" (b) (6) drawer that day.

Even if one believed that the Employer's enforcement of its disciplinary requirement that its (b) (6), (b) (7)(C) when a drawer is "short" was not discriminatory because (b) (6), (b) (7)(C) had applied it to other employees on different occasions, nothing in the record demonstrates that this clearly extraordinary, non-sanctioned, and selective practice motivated (b) (6), (b) (7)(C) actions instead of an anti-union animus. See *General Thermo, Inc.*, 250 NLRB 1260, 1261 (1980) enf. denied 664 F.2d 195 (8th Cir. 1981) (explaining "[t]he existence of a justifiable ground... is no defense if it is a pretext used to mask an unlawful motive"). More importantly, no evidence exists to support that (b) (6), (b) (7)(C) did not apply this extraordinary discipline against (b) (6), (b) (7)(C) for any other reason *except for* (b) (6), (b) (7)(C) protected activities. Timing matters in assessing a discriminatory motive, see, e.g., *C.P. Associates, Inc.*, 336 NLRB 167, 167 (2001); *Power Equipment Company*, 330 NLRB 70, 74 (1999); *Shattuck Denn Mining*, supra at 470, and here, the fact that (b) (6), (b) (7)(C) was disciplined on the very day (b) (6), (b) (7)(C) protected concerted activities were well publicized is relevant. (b) (6), (b) (7)(C) did not discipline employees (b) (6) knew stole from the drawer to the same harsh degree as (b) (6) disciplined (b) (6), (b) (7)(C) on the very day (b) (6), (b) (7)(C)

protected concerted activities were widely published throughout the Kansas City Metropolitan Area.

Notwithstanding the Union's prima facie showing, the Region dismissed the Union's charge, finding that insufficient evidence existed to establish a violation based on (b) (6), (b) (7)(C) charge. There is no question that (b) (6), (b) (7)(C) was the subject of unconscionable retaliation aimed at preventing the continued success of (b) (6), union activities. The reprehensible, punitive nature of the underlying, blatantly irrational, discriminatory, and unfounded disciplinary write up and requirement that (b) (6), (b) (7)(C) and *only* (b) (6), (b) (7)(C) through no clear fault of (b) (6), own when other employees were allowed to blatantly steal from the drawer, reveal not only obvious anti-union animus, but also the clear, chilling hostility and aggression toward (b) (6), (b) (7)(C) and the Union exhibited by the Employer.

Conclusion

For the reasons stated above, and based on such other considerations as General Counsel may find applicable, the Union respectfully requests the decision of Subregion 17 to dismiss the charge be reversed.

This the 27th day of November, 2015.

/s/ Brian Noland
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UNITED STATES GOVERNMENT
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December 4, 2015

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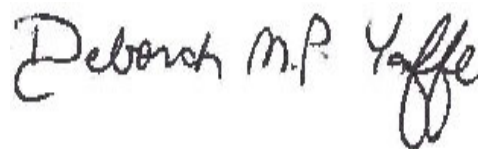
Re: King's Management Co., Inc., a
McDonald's Franchise and McDonald's
USA, LLC as Joint or Single Employer
Case 14-CA-160613

Dear Gentlemen:

We have received your appeal and accompanying material. We will assign it for processing in accordance with Agency procedures, which include review of the investigatory file and your appeal in light of current Board law. We will notify you and all other involved parties as soon as possible of our decision.

Sincerely,

Richard F. Griffin, Jr.
General Counsel

By: 

Deborah M.P. Yaffe, Director
Office of Appeals

cc: DANIEL L. HUBBEL
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kf

MEMORANDUM

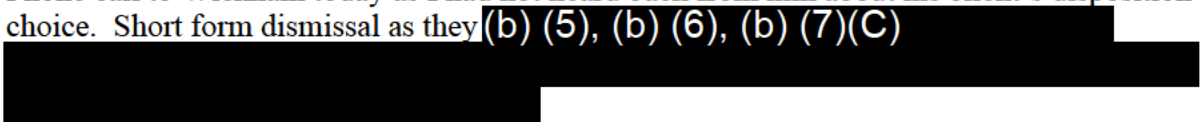
TO: File DATE: November 12, 2015

RE: King's Management Co., Inc., a McDonald's Franchise and McDonald's USA, LLC as
Joint or Single Employer
Case 14-CA-160613

FROM: WILLIAM LEMASTER, FIELD ATTORNEY

CONVERSATION WITH WICKHAM

Phone call to Wickham today as I had not heard back from him about his client's disposition choice. Short form dismissal as they (b) (5), (b) (6), (b) (7)(C)

A large black rectangular redaction box covers the bottom portion of the text, starting from the line containing the redaction codes and extending downwards.

Case Name: King's Management Co., Inc. a McDonald's Franchise and McDonald's USA,
LLC as Joint or Single Employer
Case No.: 14-CA-160613
Agent: FA LeMaster

CASEHANDLING LOG

Date	Person Contacted	Method of Contact	Description of Contact or Activity
9/24/15	Fred Wickham	Email	After being assigned the charge, I emailed Fred to let him know that I was assigned and the dates I was available the following week for affidavits. Email chain scheduling initial phone affidavit is in the file.
9/24/15	Jeff Place	Email	Place emailed after he received notification of a new charge. Asked that I email it to him. I did and advised that I would be in touch next week after taking the Union's evidence.
10/7/15	Place	Phone	PC to Place. We discussed the case. He understands the allegations. He stated (b) (5), (b) (6), (b) (7) [REDACTED] Place will provide a position statement.
10/8/15	Wickham	Phone	PC from Wickham. Over the weekend, (b) (6), (b) (7)(C) was called in and told that (b) (5), (b) (6), (b) (7) [REDACTED] Just wanted us to know.

Date	Person Contacted	Method of Contact	Description of Contact or Activity



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

February 29, 2016

FRED WICKHAM, ESQ.
WICKHAM & WOOD, LLC
4317 S RIVER BLVD
INDEPENDENCE, MO 64055-4586

Re: King's Management Co., Inc., a
McDonald's Franchise and McDonald's
USA, LLC as Joint or Single Employer
Case 14-CA-160613

Dear Mr. Wickham:

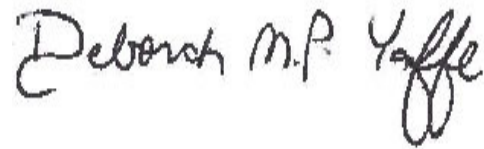
This office has carefully considered the appeal from the Regional Director's refusal to issue complaint. We agree with the Regional Director's decision and deny the appeal.

The Regional Office investigation disclosed insufficient evidence to establish that the Employer violated the National Labor Relations Act, as alleged. Specifically, there is insufficient evidence, aside from close timing, that the Employer's hostility towards the Charging Party's protected activity contributed to its decision to discipline [REDACTED] *Director, Office of Workers' Comp. Programs v. Greenwich Collieries*, 512 U.S. 267, 278 (1994), *clarifying NLRB v. Transportation Management*, 462 U.S. 393, 395, 403 n.7 (1983). Contrary to your contention on appeal, the evidence shows that the Employer has a long history of disciplining employees for such conduct in the same manner as it disciplined the Charging Party. In these circumstances, we cannot conclude that the Employer unlawfully disciplined the Charging Party because [REDACTED] engaged in protected activity.

Accordingly, we deny the appeal.

Sincerely,

Richard F. Griffin, Jr.
General Counsel



By:

Deborah M.P. Yaffe, Director
Office of Appeals

cc: DANIEL L. HUBBEL
REGIONAL DIRECTOR
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King's Management Co., Inc., a McDonald's
Franchise and McDonald's USA, LLC as
Joint or Single Employer
Case 14-CA-160613

-3

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A MCDONALD'S FRANCHISEE
812 MINNESOTA AVE
KANSAS CITY, KS 66101

WORKERS' ORGANIZING
COMMITTEE-KANSAS CITY
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ONE MCDONALD'S PLAZA
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